



ATTORNEYS AT LAW



Robert Greene Sterne
Edward J. Kessler
Jorge A. Goldstein
David K.S. Cornwell
Robert W. Esmond
Tracy-Gene G. Durkin
Michele A. Cimbala
Michael B. Ray
Robert E. Sokohl
Eric K. Steffe
Michael Q. Lee
Steven R. Ludwig
John M. Covert
Linda E. Alcorn
Robert C. Millonig
Lawrence B. Bugalsky
Donald J. Featherstone
Michael V. Messinger

Judith U. Kim
Timothy J. Shea, Jr.
Patrick E. Garrett
Heidi L. Kraus
Edward W. Yee
Albert L. Ferro*
Donald R. Banowitz
Peter A. Jackman
Molly A. McCall
Teresa U. Medler
Jeffrey S. Weaver
Kendrick P. Patterson
Vincent L. Capuano
Albert J. Fasulo II*
Eldora Ellison Floyd
Thomas C. Fiala
Brian J. Del Buono
Virgil Lee Beaston*

Kimberly N. Reddick
Theodore A. Wood
Elizabeth J. Haanes
Bruce E. Chalker
Joseph S. Ostroff
Frank R. Cottingham
Christine M. Lhullier
Rae Lynn Pengaman
Jane Shershenovich*
Lawrence J. Carroll*
George S. Bardmeyer
Daniel A. Klein*
Rodney G. Maze
Jason D. Eisenberg
Michael D. Specht
Andrea J. Kamagie
Tracy L. Muller*
Jon E. Wright*

LuAnne M. Yuricek*
John J. Figueroa
Ann E. Summerfield

Registered Patent Agents*

Karen R. Markowicz
Nancy J. Leith
Helene C. Carlson
Gaby L. Longworth
Matthew J. Dowd
Aaron L. Schwartz
Angelique G. Uy
Mary B. Tung
Katrina Y. Pei
Bryan A. Skelton
Robert A. Schwartzman
Timothy A. Doyle
Jennifer R. Mahalingappa

Teresa A. Colella
Jeffrey S. Lundgren
Victoria S. Rutherford
Eric D. Hayes

Of Counsel
Kenneth C. Bass III
Lisa A. Dunner
Evan R. Smith

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* Practice Limited to
Federal Agencies

May 30, 2003

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Re: U.S. Utility Patent Application
Appl. No. 09/719,002; § 371 Date: August 1, 2001
(U.S. National Phase of Int'l. Appl. No. PCT/GB99/01949; I.A. Filed: June 21, 1999)
For: **Inducible Promoters**
Inventors: DRAPER *et al.*
Our Ref: 0623.0960000/LBB/GLL
Art Unit: 1638

Sir:

In response to the Office Action mailed April 30, 2003, transmitted herewith for appropriate action are the following documents:

1. Reply To Restriction Requirement; and
2. One return postcard.

It is respectfully requested that the attached postcard be stamped with the date of filing of these documents, and that it be returned to our courier. In the event that extensions of time are necessary to prevent abandonment of this patent application, then such extensions of time are hereby petitioned.

WRITER'S DIRECT NUMBER:
(202) 772-8824

INTERNET ADDRESS:
glongs@skgf.com

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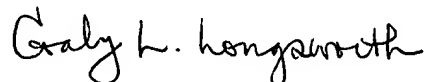
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Commissioner for Patents
May 30, 2003
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The U.S. Patent and Trademark Office is hereby authorized to charge any fee deficiency, or credit any overpayment, to our Deposit Account No. 19-0036.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.



Gaby L. Longsworth
Agent for Applicants
Registration No. 47,756

LBB/GLL/eaf
Enclosures

SKGF_DC1:139393.1



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

DRAPER *et al.*

Appl. No. 09/719,002
(Natl. Phase of Intl. Appl. No.
PCT/GB99/01949; I.A. filed June 21, 1999)

§ 371 Date: August 1, 2001

For: **Inducible Promoters**

Confirmation No. 3751

Art Unit: 1638

Examiner: Collins, C. E.

Atty. Docket: 0623.0960000/LBB/GLL

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Reply To Restriction Requirement

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

In reply to the Office Action dated April 30, 2003, requesting an election of one invention to prosecute in the above-referenced patent application, Applicants hereby provisionally elect to prosecute the invention of Group I, represented by claims 1 to 5 and 10 to 23. This election is made without prejudice to or disclaimer of the other claims or inventions disclosed.

This election is made *with traverse*. Applicants respectfully traverse the restriction requirement as it applies to Groups I, II and III. The Examiner alleges that the inventions are not linked by the same or corresponding special technical feature so as to form a single general inventive concept under PCT Rule 13.1. However, even where patentably distinct inventions appear in a single application, restriction remains improper unless the Examiner can show that the search and examination of the groups would entail a "serious burden." *See* MPEP § 803 at 800-3 (Aug. 2001). In the present situation, the Examiner has failed to make such a showing.

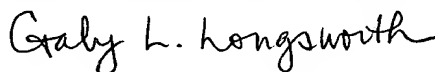
Groups I, II, and III are all drawn to isolated DNA molecules comprising a certain promoter(s). Group I DNA molecules comprise an inducible pathogenesis-related protein gene promoter, Group II DNA molecules comprise a chimeric promoter, and Group III DNA molecules comprise at least the two promoters of Groups I and II arranged in series. Applicants submit that a search for the Group I promoter would clearly also provide useful information on the Group II and Group III promoters. Thus, the inventions of Groups I, II, and III are clearly linked, and the search and examination of the groups would not entail a "serious burden."

Reconsideration and withdrawal of the restriction requirement, and consideration and allowance of the pending claims, are respectfully requested.

It is not believed that extensions of time are required, beyond those that may otherwise be provided for in accompanying documents. However, if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefor are hereby authorized to be charged to our Deposit Account No. 19-0036.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.



Gaby L. Longworth, Ph.D.

Agent for Applicants

Registration No. 47,756

Date: May 30, 2003
1100 New York Avenue, N.W.
Washington, D.C. 20005-3934
(202) 371-2600

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